

EXHIBIT H

DECLARATION

I, Joelle Martin, do hereby swear, affirm and attest under the penalties of perjury as follows, based upon my personal knowledge of the matters contained herein:

1. I am over the age of 18 and competent to testify to the matters stated in this declaration. I give this declaration voluntarily. I have not been promised any benefit, coerced or threatened in any manner in exchange for the testimony in this declaration.

2. I am employed at The 40/40 Club, located at 6 West 25th Street, New York, New York, as a server. I worked in this position from approximately May 2005 through May 2006 and June 2007 through the present.

3. I do not consider Shawn Carter to be my employer. I have never witnessed him exercise control over any personnel decisions at The 40/40 Club. To my knowledge, Mr. Carter does not interview employees, does not hire employees, does not set policies for the payment of wages, pay rates or the method of payment, and does not sign employees' paychecks. I have never witnessed Mr. Carter supervise or discipline employees, investigate complaints, or set employment policies or procedures.

4. I also do not consider Juan Perez to be my employer. I have never witnessed him exercise control over any personnel decisions at The 40/40 Club. To my knowledge, Mr. Perez does not interview employees, does not hire employees, does not set policies for the payment of wages, pay rates or the method of payment, and does not sign employees' paychecks. I have never witnessed Mr. Perez supervise or discipline employees, investigate complaints, or set employment policies or procedures.

5. At all times throughout my employment, I have been required to clock in and clock out to provide The 40/40 Club with an accurate record of my time worked. As soon as I arrive for work at the Club, I log into the computer. I log out of the computer immediately before I leave.

6. I regularly work eight to nine hours per workday. I regularly work four days per week.

7. I am not aware of any customer who has walked out of the Club without paying the bill. I believe the policies and practices of the Club protect against this happening. I have no knowledge of The 40/40 Club deducting from my wages or the wages of any other employee the amount of a bill because a customer walked out without paying.

8. The 40/40 Club has never deducted an amount from my wages due to breakage, spills, returns, wrong orders or anything similar. If any of these things happen, I let a manager know, but I am never charged. I have no knowledge of any such deductions being made from any other employee's wages.

9. I believe The 40/40 has paid me all wages to which I am entitled. I do not believe that I have been denied any minimum, overtime or other wages.

10. The 40/40 Club has never retained any portion of my tips. On one occasion, I made an error and did not have a customer sign his credit card receipt. Accordingly, I did not receive the tip for that bill on that evening. I did, however, receive the full amount of the tip within ninety days. Although, on that occasion, the customer left without signing the credit card receipt, I was not held responsible for paying the full amount of the transaction.

11. The 40/40 Club does not serve customers after 4:00 a.m. I am not aware of any server ever working until 6:00 a.m. On most nights, servers generally leave by 5:00 a.m.

12. Servers at the 40/40 Club maintain the amounts paid by customers, including tips we receive, until the end of the night. A 20% tip is automatically added to each bill by the computer. At the end of the night, our checks are added up. If the amount of cash we receive is greater than the credit card tips we are due, we pay the Club the amount of the bills less the tips. On the occasions where the amount of cash we receive does not cover our credit card tips, we are paid the balance by the Club on the spot. Therefore, the Club never takes possession of our tips. The 40/40 Club does not have a tip pooling arrangement, but we do give a percentage of our tips to the bussers, runners and bartenders who help us serve our tables.

13. This declaration was prepared by counsel for Twenty Ones, Inc. d/b/a The 40/40 Club based on an interview in which I voluntarily participated. I was advised that I could end the interview at any time. I have also been told by counsel for Twenty Ones Inc. that I should only sign this declaration if everything within it is true and correct to the best of my knowledge, information and belief. I have been given a full opportunity to review carefully this declaration I have been given a full opportunity to review carefully this declaration and freely make any corrections and additions of any kind. I verify that the information I have provided in this declaration is true and correct.

Pursuant to 28 U.S.C. § 1746, I verify under penalty of perjury, under the laws of the United States of America, that the foregoing is true and correct.


Joelle Martin
Date